Time Clock Need Not Be Punched.—Plaintiff brought an action against defendant to recover the sum of $2.10 for one day's work at 20 cents an hour earned as a frame builder, for which payment had been refused. Matthews *v.* Industrial Lumber Company, 75 Southeastern Reporter, 170. Defendant admitted that plaintiff had performed the work, but refused to pay him because he had failed to punch on that day a mechanical time clock as all employees were required to do when going on and off duty. The Supreme Court of South Carolina holds that plaintiff was not bound by any rule that he had not contracted to observe or was not incident to or assumed by him in the general scope of his employment, even though he had knowledge of it and violated it. Having performed the work required, he was entitled to be paid.

Admissibility of Evidence as to Character.—While the law says that when a defendant is placed upon trial under a criminal charge he may offer evidence as to his good character, can he go a step further and show that his character is better than that of the average man? The question is answered by the Court of Appeal of Alabama in Cook *v.* State, 59 Southern Reporter, 519, in a case in which defendant, a negro, was charged with homicide. The court says: "We know of no rule, however, which permits a defendant to show by witnesses that he—after the similitude of the Pharisee who was thankful that he was better than other men—possesses a character superior in points of excellence to that of the average man. The witness Harris was properly permitted to testify that the defendant was, in the community in which he lived, regarded as a man of good character. The court properly refused, however, to allow that witness to testify that his character was better than 'the average negro.' The law draws no distinction between the negro and the members of the white race as to what is or is not a good character. There is but one standard, and all men must measure up to it."

An Unmarried Woman Determined.—Who is an unmarried woman? This is the pivotal question in People *v.* Weinstock, 140 New York Supplement, 453, a seduction case, in which under the statute defining the crime it devolved upon the state to show that prosecutrix was unmarried. The facts are: The prosecutrix was married in 1901 in New York, where she lived with her husband for a period of one year. Soon thereafter he deserted her, and ever since his whereabouts have been unknown. She has never heard from him or about him and does not now know whether he be living or dead, but she testified that she had heard he went away with another woman. In 1911 she charged defendant in the above action with seduction under the Penal Law protecting "unmarried" women, etc. The city magistrate's court of New York City holds that an

"unmarried" female is not necessarily one never married, but includes widows and divorced women, especially in view of the use of the comprehensive word "female," which includes all unmarried women, whether spinsters, widows, or divorcees. The next question which presents itself then is, Is she a widow under the rule by which disappearance gives rise to a presumption of death? The court answers that the common-law presumption of death after a lapse of years is not sufficient in a criminal prosecution, and no conviction for crime should be had on mere suspicion or on a presumption of the existence of the fact for which there is no basis. Mere disappearance does not give rise to the presumption of death, and where, as in this case, the husband of the prosecutrix left supposedly with another woman, it can hardly be expected that he would make his whereabouts known to any one. The complaint is dismissed, and defendant ordered discharged.

Injury from Being Hit by a "Foul Ball."—Upon the coming of the first harbingers of spring, to review a baseball case should not be amiss. In Crane *v.* Kansas City Baseball & Exhibition Co., 153 Southwestern Reporter, 1076, plaintiff sues the owners of a baseball park for certain injuries. Plaintiff attended a game as a spectator and paid for admission to the grand stand. Reserved seats were not sold, and he had the option of seating himself at some place behind the netting or in an unprotected seat. He chose one of the latter, and during the progress of the game was struck by a foul ball and injured. His claim is that defendants were negligent in not screening in the whole of the grand stand, and that such negligence was the proximate cause of his injury. The Kansas City Court of Appeals holds that defendants were not insurers of the safety of spectators, but were only bound to exercise reasonable care, and that they fully performed that duty when they provided screened seats in the grand stand and gave plaintiff the opportunity of occupying one of those seats. Plaintiff voluntarily chose an unprotected seat and thereby assumed the ordinary risks of such position. The following, quoted from the opinion, is of interest as showing the court's conception of a baseball game: "The object of the batter is to 'make a hit,' and to do so he must strike a pitched ball and send it to some point inside the foul lines. The object of the pitcher is to prevent the batter from making a safe hit, and such object is aided by a foul hit, which cannot help and may count against the batter." Judgment went for defendants.

Legality of Sale of Property to Colored Persons.—The right of one owning real estate to sell the same to colored persons comes up in Holbrook *v.* Morrison, 100 Northeastern Reporter, 1111. Complain-